



Office of School Improvement
Field Services Unit

Technical Assistance Packet
Working with Private Schools

Title I, Part C – Migrant Education

Providing Services to Eligible Private School Children



Title I, Part C: Providing Services to Eligible Private School Students

Services

The Migrant Education Program (MEP) is designed to support high-quality comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves. The program provides educational and support services to migrant children and youth through both regular school year and summer programs. Children are eligible if their families have moved within the previous 36 months to obtain temporary or seasonal work in agriculture or fishing. Priority is given to children who are not achieving core academic curriculum standards and whose education has been interrupted during the regular school year. The program also supports identification and recruitment activities across the state to locate migrant families and inform them of available services.

Children who attend private school are eligible to receive MEP services if they: 1) meet the statutory and regulatory definition of a migrant child; 2) meet the priority for services criteria and 3) have special educational needs identified through the State's comprehensive needs assessment and service delivery plan.

Consultation (as per Title I, Part C Draft Guidance 10/23/03)

Agencies that receive MEP funds to provide supplemental educational services or other benefits on an equitable basis to eligible children who are enrolled in private schools, and to their teachers and other educational personnel. This must be done after timely and meaningful consultation with appropriate private school officials. The agency that operates the local MEP project must comply with this requirement.

To meet this requirement, the agency must consult with private school officials before making any decision that affects the opportunities of eligible private school children to participate in a MEP project. Consultation must cover all phases of the design and development of the MEP project, including:

- How the agency will identify the children's needs;
- What services the agency will offer;
- How and where the agency will provide those services;
- Who will provide the services;
- How the agency will assess the services and how it will use results of the assessment to improve those services;
- Amount of funds available for services;
- Size and scope of the services to be provided; and
- How and when the agency will make decisions about the delivery of services.

Documentation

Each local educational agency shall maintain a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred.

- Document the meeting, discussion, process and the final plan which should include:

Required Documentation

Letter of invitation to plan
Documentation of private school consultation

Suggested Documentation

Minutes of meetings
Plan for delivery of service
Program evaluation process

- LEAs may request documentation, as needed, from private school officials that can help the LEA identify services that may be appropriate to the needs of private school migrant students. However, requiring a formal application may, depending upon its form and content, constitute an administrative barrier that is inconsistent with the LEA's responsibility to ensure equitable participation of private school migrant students.
- To meet its general record-keeping responsibility, an LEA should document that: (a) representatives of private schools were informed of the availability of Title I, Part C services; (b) the needs of private and public school migrant students were identified as part of a district-wide needs assessment; (c) private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and (d) the LEA designed program activities that would permit their equitable participation. Although the statute and regulations require SEAs to provide services on an equitable basis, the services do not have to be the same in order to be equitable. If the needs assessment reveals that private school children have different special educational needs than public school migrant children, the services offered should address those needs. (See 34 CFR 299.7(c)).

Allocation

- Contact the Title I, Part C migrant consultant at the Michigan Department of Education (MDE) to assist you with determining the appropriate per pupil amount for students eligible for Title I, Part C services.

Resources

- Refer to Guidance and Uniform Provisions for more information.

Summer Migrant Program Timeline

- February:** Send letter of invitation to plan programs. In the event that there is no response to the initial letter at least one additional follow-up contact should occur (phone call/school visit). Once participation is verified, schedule a series of consultation meetings to discuss and collect eligible student data. Contact MDE for per pupil funding amounts.
- March:** Continue consultation meetings. Review demographic information per program requirements. Design program services and complete application in MEGS.
- April:** Funding available after approval of the application.



Office of School Improvement
Field Services Unit

Technical Assistance Packet
Working with Private Schools

Title I, Part C

Resources





Title I, Part C Education of Migratory Children

Non-Regulatory Guidance



October 23, 2003

U.S. Department of Education
Washington, DC

Serving migrant children who attend private schools

Q1. Must an SEA and local operating agency serve eligible migrant children who attend private schools?

A1. Yes. Sections 9501 of the statute and 299.6 of the regulations require SEAs that receive MEP funds to provide special educational services or other benefits on an equitable basis to eligible children who are enrolled in private schools, and to their teachers and other educational personnel. This must be done after timely and meaningful consultation with appropriate private school officials.

Q2. Who must comply with the consultation requirement – the SEA or the local operating agency?

A2. The agency that operates the local MEP project must comply with this requirement.

Q3. How does an agency meet the consultation requirement with private school officials?

A3. To meet this requirement, the agency must consult with private school officials before making any decision that affects the opportunities of eligible private school children to participate in a MEP project. Consultation must cover all phases of the design and development of the MEP project, including:

- How the agency will identify the children's needs;
- What services the agency will offer;
- How and where the agency will provide those services;
- Who will provide the services;
- How the agency will assess the services and how it will use results of the assessment to improve those services;
- Amount of funds available for services;
- Size and scope of the services to be provided; and
- How and when the agency will make decisions about the delivery of services.

Q4. Which children who attend private schools are eligible to receive MEP services?

A4. Children who attend private school are eligible to receive MEP services if they: 1) meet the statutory and regulatory definition of a migrant child; 2) meet the priority for services criteria in section 1304(d); and 3) have special educational needs identified through the State's comprehensive needs assessment and service delivery plan.

Q5. May a local operating agency decide not to serve eligible migrant private school children because there are too few of them to serve?

A5. Yes. The SEA and local operating agency have the discretion to determine what number of eligible students is too few to serve, so long as this determination is made on an equitable basis (i.e., on the same basis as public schools). If it is feasible and equitable, agencies may adopt alternative methods that are cost-effective to serve small numbers, such as individual tutoring programs, professional development activities with the classroom teachers of eligible migrant students, or other strategies.

Q6. If private school officials do not wish to have their children participate in the MEP, is the SEA or local operating agency still required to serve these children?

A6. No. If, after consultation with private school officials, the officials do not wish to have their students participate in the MEP, neither the SEA nor the local operating agency are required to serve these children. However, in its consultation, the local operating agency should explain the various ways in which the agency can help provide services to children attending private schools.

Q7. Should the SEA assess the needs of private school children residing in the State?

A7. Yes. Through the consultation process with private school officials, the local operating agency may assess the needs of eligible migrant children enrolled in private schools in its service area. These children would then be included in the statewide needs assessment.

Q8. Must the services the SEA provides private school children be the same as those it provides public school children?

A8. No. Although the statute and regulations require SEAs to provide services on an equitable basis, the services do not have to be the same in order to be equitable. If the needs assessment reveals that private school children have different special educational needs than public school migrant children, the services offered should address those needs. (See 34 CFR 299.7(c).)

Q9. How does an agency determine whether services are equitable?

A9. Section 299.7(b)(2) of the regulations provides that services are equitable if the agency:

1. Addresses and assesses the specific needs and educational progress of private school children on a comparable basis as public school children;
2. Determines the number of students to be served on an equitable basis;
3. Meets the equal expenditure requirements; and
4. Provides private school children with an opportunity to participate that –

-
- Is equitable to the opportunity and benefits provided to public school children; and
 - Provides reasonable promise that participating private school children will meet the challenging academic standards called for by the State's student performance standards (or equivalent standards applicable to private school children and agreed upon during consultation between public and private school officials).

Q10. What happens if, after offering to provide equitable services to private school children, participation is low or the children participate only in some of the services?

A10. If the private school children's participation is low or they choose to participate only in some of the services the agency offers, the agency should examine why this is so and, if appropriate, modify the project in a manner that increases participation. If modification of the project does not increase participation and the agency determines that it is not cost-effective to provide services, the agency may terminate the services, so long as this decision is made on an equitable basis. (See Question Q5 of this chapter.)

Q11. If children reside in a geographical area served by one local operating agency but their school is located in a geographical area served by another agency, which agency is responsible for serving them?

A11. The local operating agency that serves the geographical area where the school is located is responsible for serving the children. (See section 9501(a)(1) of the statute.)

Q12. How might an SEA ensure that local operating agencies collaborate with private school officials to provide appropriate services to migrant children enrolled in private schools?

A12. An SEA might use its subgrant application process as one way to ensure that local operating agencies consult with private school officials in providing services to eligible migrant children. For example, the SEA could establish procedures for refusing to award a subgrant unless the application addresses whether and how the local operating agency consulted with private school officials in designing and developing its migrant education project. Alternatively, the SEA might use its monitoring process to ensure that local operating agencies meet this requirement.

Q13. May MEP personnel go on the premises of religiously affiliated private schools to provide MEP instructional services?

A13. Yes. MEP personnel may provide direct services to eligible private school migrant students on site at private schools, including religiously affiliated schools.

Q14. What can a small rural local operating agency with a small MEP allocation do to provide equitable services to private school children?

A14. Rural local operating agencies may have special problems because of small allocations, large distances between private schools, and few locations to provide services. These agencies may consider leasing rather than purchasing equipment, renting a neutral site, or using home tutoring to provide equitable services. They may also consider setting up a joint project with neighboring operating agencies and submitting a combined application

From Title IX, Part E — Uniform Provisions

SUBPART 1 — PRIVATE SCHOOLS

SEC. 9501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

(a) PRIVATE SCHOOL PARTICIPATION-

(1) **IN GENERAL-** Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

(2) **SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS-** Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) **SPECIAL RULE-** Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

(4) **EXPENDITURES-** Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(5) **PROVISION OF SERVICES-** An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

(b) APPLICABILITY-

(1) **IN GENERAL-** This section applies to programs under —

(A) subparts 1 and 3 of part B of title I;

(B) part C of title I;

- (C) part A of title II, to the extent provided in paragraph (3);
- (D) part B of title II;
- (E) part D of title II;
- (F) part A of title III;
- (G) part A of title IV; and
- (H) part B of title IV.

(2) DEFINITION- For the purpose of this section, the term eligible children' means children eligible for services under a program described in paragraph (1).

(3) APPLICATION- (A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

(c) CONSULTATION-

(1) IN GENERAL- To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as —

- (A) how the children's needs will be identified;
- (B) what services will be offered;
- (C) how, where, and by whom the services will be provided;
- (D) how the services will be assessed and how the results of the assessment will be used to improve those services;
- (E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and
- (F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

(2) DISAGREEMENT- If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the

reasons why the local educational agency has chosen not to use a contractor.

(3) TIMING- The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) DISCUSSION REQUIRED- The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) PUBLIC CONTROL OF FUNDS-

(1) IN GENERAL- The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

(2) PROVISION OF SERVICES-

(A) IN GENERAL- The provision of services under this section shall be provided —

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) INDEPENDENCE; PUBLIC AGENCY- In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) COMMINGLING OF FUNDS PROHIBITED- Funds used to provide services under this section shall not be commingled with non-Federal funds.

SEC. 9503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

(a) PROCEDURES FOR COMPLAINTS- The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 9501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

(b) APPEALS TO SECRETARY- The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. The appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 days after receipt of the appeal.